

REMARKS

Applicant submits this Reply to the Office Action mailed December 1, 2006. By this Reply, Applicant has amended claims 1, 6, 9, 16, 23, 37, and 39. Accordingly, claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 remain pending. The originally-filed specification, drawings, and claims fully support the subject matter of amended claims 1, 6, 9, 16, 23, 37, and 39. Thus, the amendments do not introduce new matter.

In the Office Action, claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. The Office Action states: "the result yielded by claim 1 (e.g., assessment data) is subjective in nature and depends entirely on the person carrying out the invention." Office Action at page 7. Applicant respectfully disagrees, submitting that the claimed invention would produce useful, concrete and tangible results. For example, amended claim 1 recites:

A method of assessing a culture of an organization for making improvements thereon, comprising the steps of: collecting responses from members of the organization; and performing an assessment process including: compiling the responses into a data format, sorting the compiled responses to identify a theme based on the response with the highest frequency, generating a report based on the identified theme, automatically selecting a first action corresponding to the identified theme in reply to receiving the report, collecting responses from members of the organization reflecting a performance of implementing the first action in the organization, and sorting the collected responses to identify an effect of the implemented first action on the organization based on the response having the highest frequency.

The subject matter recited in amended claim 1 is not subjective and does not depend entirely on the person carrying out the invention. For example, claim 1 recites "sorting the compiled responses to identify a theme based on the response with the highest

frequency.” Contrary to the assertions in the Office Action, a human does not subjectively determine a theme. Instead, a theme is identified based on the response with the highest frequency.

In addition, claim 1 recites “automatically selecting a first action corresponding to the identified theme in reply to receiving the report.” In other words, a human does not decide a first action to implement, as alleged in the Office Action at page 6. Rather, a first action is automatically selected based on the response with the highest frequency, the identified theme. Therefore, Applicant submits that claim 1 will produce a useful, concrete, and repeatable result. Independent claims 9, 16, 23, 37, and 39, although of different scope, contain similar limitations and will thus also produce useful, concrete, and repeatable results. Accordingly, Applicant requests withdrawal of the section 101 rejection of claims 1-12, 16-19, 23-26, 37, 39, 41, and 42.

In the Office Action, claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 were also rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Office Action states that “[t]he claim(s) contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.” Office Action at page 10. Applicant respectfully disagrees. As fully set forth above in response to the § 101 rejection, the claimed invention is not purely dependent on human subjectivity and would produce a useful, concrete, and tangible result. Accordingly, Applicant submits that the specification would enable one of ordinary skill in the art to consistently make and/or use the claimed invention without

undue experimentation. Applicant thus requests withdrawal of the 35 U.S.C. § 112, first paragraph, rejection of claims 1-12, 16-19, 23-26, 37, 39, 41, and 42.

Also in the Office Action, claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 also were rejected under 35 U.S.C. § 112, second paragraph, "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Office Action at page 11. The Office Action contends that "the results yielded by claim 1 (e.g., assessment data) is subjective in nature and depends entirely on the person carrying out the invention, thereby rendering the scope of the recited determining and analysis steps unclear." Office Action at page 11. Applicant submits that amended claim 1 is not subjective and does not depend entirely on the person carrying out the invention. For example, as noted above, claim 1 recites "sorting the compiled responses to identify a theme based on the response with the highest frequency." Contrary to the assertions in the Office Action, a human does not subjectively determine a theme. Instead, a theme is identified based on the response with the highest frequency. Additionally, claim 1 recites "automatically selecting a first action corresponding to the identified theme in reply to receiving the report." That is, a human does not decide a first action to implement, as alleged in the Office Action at page 6. Rather, a first action is automatically selected based on the response with the highest frequency, namely the identified theme. Accordingly, Applicant submits the claimed invention is not purely subjective and does not depend entirely on the person carrying out the invention as alleged in the Office Action. Therefore, claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 are definite, and withdrawal of the rejections under 35 U.S.C. § 112, second paragraph is requested.

In view of the foregoing remarks, Applicant submits that the pending claims 1-12, 16-19, 23-26, 37, 39, 41, and 42 are directed toward statutory subject matter and particularly point out and distinctly claim embodiments of Applicant's invention.

Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

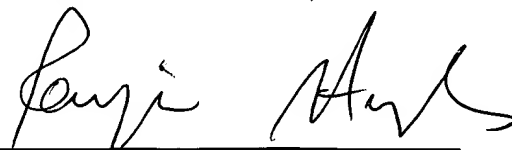
In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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